IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLIATION NO.9 OF 1999

Smt.Asha Rameshkumar Kanodia
R/o.E/18/B, 604, Yogi Nagar,
Borivali(W), Bombay:400 092. ... Petitioner

V/s.

1. Smt.Krishna Kanodia
2. Sureshkumar Kanodia
3. Ashokkumar Kanodia
4. Nareshkumar Kanodia
5. Anilkumar Kanodia
6. Smt.Mainadevi Kanodia

All R/o.New Sarvottam Co.op.
Housing Society, Building No.I/E,
Flat No.40, Irla Bridge, S.V. Road,
Andheri(W), Bombay:400 058.

7. State of Maharashtra ... Respondents/
(Res.No.1 to 6/Ori.Accd.)

Shri.D.S. Sawant for petitioner.
Shri.Amit Surve i/b S.N. Chimade Adv. for Respondent No.1, 4, & 6.
Shri.D.P. Adsule APP for the State.

CORAM : V.M. KANADE, J.

DATED : 12/01/2007

ORAL JUDGMENT:-

1. Heard learned counsel for the petitioner and learned counsel for the Respondents.

2. Petitioner is the original complainant who had filed complaint against accused for the offences punishable U/s.498(A), 406, 506(II) r/w 114 of IPC. Complaint was filed by the petitioner against her in-laws in which it was alleged that after death of her husband, her in-laws had ill-treated her and removed golden bangles from her person and also had threatened her. Complaint was registered at Juhu Police Station, Mumbai. After investigation, chargesheet was filed and charge U/s.498(A), 406, 506(II) r/w 114 of IPC was framed against them. However, trial court acquitted all the accused. Against said order of acquittal, petitioner/orig.complainant has filed this criminal revision application.

3. Learned counsel for the petitioner candidly pointed out that he was aware of scope of jurisdiction which can be exercised by this court U/s.401 of Cr.P.C. and that in view of sub-clause 3 of Sec.401 of Cr.P.C, an order of acquittal can not be converted into order of conviction. He further submitted that trial court had not appreciated

evidence properly and therefore, this was a fit case where matter ought to have been remanded to the trial court for re-trial or re-hearing. He invited my attention to the order passed by the trial court. He submitted that trial court had only taken into consideration evidence from the witnesses. So far as charge U/s.498(A) is concerned, he had not given any reasons or had not appreciated evidence with reference to the other charges which are framed against the accused. He submitted that this clearly indicates that there was non-application of mind on the part of trial court. He further submitted that Judgment and Order passed by the learned Magistrate be set aside and matter be remanded for re-hearing.

4. It is not possible to accept said submissions led by the learned counsel for the petitioner. Scope of power which can be exercised by this court while exercising its revisional jurisdiction U/s.401 of Cr.P.C. is very limited. Only in cases where it is shown that there is clear mis-carriage of justice or that there is material irregularity in respect of procedure which is followed by the trial court, the matter is remanded for re-hearing, whereas in the present case, the learned Magistrate has appreciated evidence on record and has arrived at finding and has come to the conclusion that no case is

made out against the accused. It is not possible for this court to take a different view when two views are possible. Under these circumstances, there is no merit in the submissions led by the learned counsel for the Petitioner. Criminal revision application is, accordingly dismissed.

V.M. KANADE J.